

**APPROVED MINUTES
YORK COUNTY PLANNING COMMISSION**

Regular Meeting
York Hall, 301 Main Street
March 9, 2005

MEMBERS

Nicholas F. Barba
Anne C. H. Conner
John R. Davis
Alexander T. Hamilton
Alfred E. Ptasznik, Jr.
Andrew A. Simasek
John W. Staton

CALL TO ORDER

Chair Andrew Simasek called the regular meeting to order at 7:00 p.m.

REMARKS

Chair Simasek stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

ROLL CALL

The roll was called and all members were present. Staff members present were J. Mark Carter, James E. Barnett, Jr., Timothy C. Cross, Amy Parker, and Earl Anderson.

APPROVAL OF MINUTES

Mr. Barba moved adoption of the minutes of the regular meeting of February 9, 2005. The minutes were adopted unanimously by roll call vote.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. ZM-88-04, King's Creek Developers, LLC: Request to amend the York County Zoning Map by reclassifying a 25.1-acre portion of two parcels located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road) from RR (Rural Residential) to EO (Economic Opportunity) subject to voluntarily proffered conditions.

The combined acreage of the two parcels is 28.3 acres. The applicant has proffered that the property will be used exclusively for timeshare development, that buildings will be limited to no more than four stories in height, and that no buildings will be within 50 feet of any adjacent residential property; and **Application No. UP-646-04, King's Creek Developers, LLC**: Request, contingent on the approval of Application No. ZM-88-04 above, for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 11) of the York County Zoning Ordinance, to authorize the construction of up to 400 timeshare units on approximately 25.1 acres located at 1681 Penniman Road (Route 641) and 112 Jones Drive (private road). The applicant plans to incorporate this property into the King's Creek Plantation timeshare resort currently under construction on approximately 157 acres adjacent thereto. (The Commission tabled these applications at its October 13, 2004 meeting.)

Timothy C. Cross, AICP, Principal Planner, summarized the staff report to the Commission dated February 28, 2005. He explained the applicant had revised the original applications, tabled by the Commission last fall, limiting the building setback from any property line from 50 ft. to 35 ft. and the maximum building height from six to four stories. In staff's opinion, the proposed revisions should ameliorate staff's original concerns about possible noise and visual impacts on surrounding properties. Therefore, the staff is recommending approval of both applications, he said.

At **Mr. Simasek's** request, **Mr. Cross** explained the proposed buffers for each of the properties. In response to a question by **Mr. Ptasznik**, **Mr. Cross** affirmed that driveways are permitted within 50 ft. of a property line as long as they maintain a 35 ft. buffer.

The Chair opened the public hearing.

Mr. Billie Millner, 27 Indigo Dam Road, Newport News, of Jones Blechman Woltz and Kelly, PC, represented the applicants and proceeded to introduce Mr. Thomas Ruhf, President and CEO of Kings Creek Developers; Mr. Ron Osborne of Landmark Design Group, and Ms. Tammie Hicks, representing neighbors and homeowners near the project. Mr. Millner said the applicants had fulfilled all the promises made in the past to the County and have been excellent corporate citizens and their tax revenues accruing to the County are significant.

Mr. Hamilton inquired if the application included any recreational facilities for guests. **Mr. Millner** explained that recreational amenities for the overall Kings Creek development include an indoor aquatic center, cookout areas, park benches, and two outdoor swimming pools.

Mr. Staton inquired how many units have been sold and the estimated build out time.

Mr. Thomas Ruhf stated 170 units have been sold and total build out should take 15 to 20 years. **Mr. Millner** added that the applicant would not focus on the subject application until at least 2012.

Ms. Tammie R. Hicks, 1701 Penniman Road, thanked the applicant for meeting with homeowners of the surrounding area to hear their desires, needs and concerns, then addressing the comments in the proposal. She added that she had attended a "Charting the Course to 2025" neighborhood

meeting last fall and expressed to **Mr. Cross** the hope that commercial uses not be allowed to take over the few remaining residential areas in the upper County.

Mr. Davis recommended approval, noting that he believed the subject proposal was an improvement over the initial proposal.

Mr. Barba said he expected more neighborhood opposition, but lacking that he was even more convinced the plan was good for the area.

Mr. Simasek expressed appreciation to the applicants for taking the time and effort to hear the neighbors' views and concerns.

Mr. Ptasznik moved adoption of proposed Resolution PC05-8.

PC05- 8

On motion of Mr. Ptasznik, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO REZONE APPROXIMATELY 25.1 ACRES ON THE SOUTH SIDE OF PENNIMAN ROAD FROM RR – RURAL RESIDENTIAL TO EO – ECONOMIC OPPORTUNITY SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS

WHEREAS, King's Creek Developers, LLC has submitted Application No. ZM-88-04, which requests to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to EO (Economic Opportunity) approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), and further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. ZM-88-04 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying from RR (Rural Residential) to EO (Economic Opportunity) approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), and further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F and more fully identified and described as follows:

All of that piece or parcel of land situated in the Magruder district of York County, VA containing 25.1456 acres and more particularly described as follows:

Beginning at a point on the southerly right-of-way line of Penniman Road, State Route 641, said point being the common corner between the property herein described and property now or formerly owned by Lawrence I. Jones. Thence from said point of being along a curve to the right having a radius of 715.00' and an arc length of 50.02' to a point; thence S 26° 44' 40" E, 351.50' to a point; thence N 63° 15' 20" E, 180.69' to a point; thence S 22° 43' 40" E, 32.83' to a point; thence N 45° 00' 23" E, 7.50' to a point; thence S 44° 49' 37", 224.21' to a point; thence N 45° 10' 23" E, 249.33' to a point; thence S 44° 57' 45" E, 111.48' to a point; thence S 44° 57' 45" E, 232.26' to a point; thence S 41° 52' 45" E, 289.41' to a point; thence S 41° 29' 45" E, 59.58' to a point; thence S 44° 21' 53" E, 124.54' to a point; thence S 31° 31' 01" E, 27.01' to a point; thence S 31° 41' 53" E, 37.93' to a point; thence S 12° 03' 01" E, 115.13' to a point; thence S 26° 32' 55" E, 143.74' to a point; thence S 09° 16' 58" E, 235.50' to a point; thence S 56° 34' 50" W, 230.74' to a point; thence N 76° 38' 13" W, 189.81' to a point; thence N 51° 01' 51" W, 328.64' to a point; thence S 73° 16' 35" W, 167.41' to a point; thence N 53° 05' 20" W, 87.91' to a point; thence N 80° 39' 21" E, 89.09' to a point; thence N 52° 47' 00" W, 160.01' to a point; thence N 37° 42' 56" W, 280.28' to a point; thence N 31° 41' 51" W, 201.60' to a point; thence N 26° 55' 57" W, 47.61' to a point; thence N 26° 38' 25" W, 92.06' to a point; thence N 19° 43' 25" W, 54.28' to a point; thence N 63° 15' 25" E, 100.13' to a point; thence N 26° 44' 40" W, 166.48' to a point; thence N 49° 17' 00" W, 98.64' to a point; thence N 47° 22' 10" E, 195.27' to a point; thence N 26° 44' 40" W, 189.79' and returning to the Point of Beginning.

BE IT FURTHER RESOLVED that the Commission recommends that approval of this application be subject to the voluntarily proffered conditions as set forth in the applicant's proffer statement, titled "REVISED PROFFERS: Rezoning Application No. ZM-88-04," signed by Thomas J. Ruhf, Authorized Agent for King's Creek Developers, LLC and dated January 27, 2005, a copy of which shall remain on file in the Planning Division and which, upon approval by the Board of Supervisors, shall be recorded in the office of the Clerk of the Circuit Court pursuant to the requirements of Section 24.1-114(e)(1) of the York County Zoning Ordinance.

Mr. Hamilton moved to adopt proposed Resolution PC05-9.

PC05-9

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE CONSTRUCTION OF UP TO 400 TIMESHARE UNITS ON PENNIMAN ROAD

WHEREAS, King's Creek Developers, LLC has submitted Application No. UP-646-04 requesting a Special Use Permit, pursuant to Section 24.1-306 (Category 11, Number 11) of the York County Zoning Ordinance, to authorize the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. UP-646-04 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit for the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F and more fully identified and described as follows:

All of that piece or parcel of land situated in the Magruder district of York County, VA containing 25.1456 acres and more particularly described as follows:

Beginning at a point on the southerly right-of-way line of Penniman Road, State Route 641, said point being the common corner between the property herein described and property now or formerly owned by Lawrence I. Jones. Thence from said point of being along a curve to the right having a radius of 715.00' and an arc length of 50.02' to a point; thence S 26° 44' 40" E, 351.50' to a point; thence N 63° 15' 20" E, 180.69' to a point; thence S 22° 43' 40" E, 32.83' to a point; thence N 45° 00' 23" E, 7.50' to a point; thence S 44° 49' 37" E, 224.21' to a point; thence N 45° 10' 23" E, 249.33' to a point; thence S 44° 57' 45" E, 111.48' to a point; thence S 44° 57' 45" E, 232.26' to a point; thence S 41° 52' 45" E, 289.41' to a point; thence S 41° 29' 45" E, 59.58' to a point; thence S 44° 21' 53" E, 124.54' to a point; thence S 31° 31' 01" E, 27.01' to a point; thence S 31° 41' 53" E, 37.93' to a point; thence S 12° 03' 01" E, 115.13' to a point; thence S 26° 32' 55" E, 143.74' to a point; thence S 09° 16' 58" E, 235.50' to a point; thence S 56° 34' 50" W, 230.74' to a point; thence N 76° 38' 13" W, 189.81' to a point; thence N 51° 01' 51" W, 328.64' to a point; thence S 73° 16' 35" W, 167.41' to a point; thence N 53° 05' 20" W, 87.91' to a point; thence N 80° 39' 21" E, 89.09' to a point; thence N 52° 47' 00" W, 160.01' to a point; thence N 37° 42' 56" W, 280.28' to a point; thence N 31° 41' 51" W, 201.60' to a point; thence N 26° 55' 57" W, 47.61' to a point; thence N 26° 38' 25" W, 92.06' to a point; thence N 19° 43' 25" W, 54.28' to a point; thence N 63° 15' 25" E, 100.13' to a point; thence N 26° 44' 40"

W, 166.48' to a point; thence N 49° 17' 00" W, 98.64' to a point; thence N 47° 22' 10" E, 195.27' to a point; thence N 26° 44' 40" W, 189.79' and returning to the Point of Beginning.

BE IT FURTHER RESOLVED that the Commission recommends that approval of this use permit be subject to the following conditions:

1. This Special Use Permit shall authorize the construction of a maximum of 400 timeshare units on approximately 25.1 acres of land located on the south side of Penniman Road (Route 641) approximately 600 feet west of its intersection with Springfield Road (Route 687), further identified as portions of Assessor's Parcel Nos. 11-3-E and 11-3-F.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to the commencement of any development or land clearing activities on the site. Such site plan shall be in substantial conformance with the "King's Creek Plantation, Jones Acquisition Exhibit," prepared by Landmark Design Group and dated January 6, 2005, supplemented by the applicant's narrative description titled "King's Creek Plantation: Jones Property Expansion," dated January 27, 2005, and the building rendering entitled "SPI & SPJ Building Elevation, Kings Creek Plantation Jones Tract" and dated January 6, 2005." Copies of all three documents shall remain on file in the Planning Division.
3. The maximum number of timeshare units, including "lockout units," shall be 400.
4. No buildings on the subject property shall exceed four (4) stories in height.
5. On-site parking to serve the development shall be provided at a minimum ratio of 1.3 spaces per dwelling unit.
6. The Zoning Administrator shall be authorized to require the developer to conduct a signal warrant analysis of the intersection of Tranquility Drive, Penniman Road, and Route 199 prior to the approval of any site plan for development of the property. In any event, a traffic signal warrant analysis shall be required prior to approval of the 1,101st unit in the project, if a signal has not yet been installed.
7. The developer shall provide a gated access from the subject property to Penniman Road for emergency vehicles only. No other vehicular access from the subject property to Penniman Road shall be permitted either during or after the construction process.
8. Landscaping shall be provided on both sides of the afore-mentioned gated emergency access in accordance with the planting ratios for a Type 25 (25') transitional buffer in accordance with the standards set forth in Section 24.1-243 of the York County Zoning Ordinance.
9. The entire development shall be served by public water and sanitary sewer.

10. The developer shall submit a Natural Resources Inventory in accordance with the Environmental Management Area Overlay District standards set forth in Section 24.1-372(d) of the Zoning Ordinance.
11. The timeshare resort shall consist only of residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.
12. Permanent year-round occupancy of any units by any individual or family other than that of a resident manager or caretaker and his or her family shall not be permitted.
13. All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with Section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.
14. All streets, drives, and parking areas in the development shall be constructed to VDOT cross-sectional street standards.
15. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.

Application No. ZM-91-05, Landmark Building & Development of North Carolina, LLC: Request to amend the York County Zoning Map by reclassifying 63.48 acres identified as Assessor's Parcel Nos. 15-2-D, 15-6-A, 15-7, 15-2-C, 15-2-B, and 15-4B from LB (Limited Business) to EO (Economic Opportunity); a 1.0-acre portion of Assessor's Parcel No. 15-4A from RC (Resource/Conservation) to EO; a 1.08-acre portion of Assessor's Parcel No. 15-2-B from LB to RC; and a 0.41-acre portion of Assessor's Parcel No. 15-4A from LB to RC. The property is located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of its intersection with Tam-O-Shanter Boulevard (Route 1123) and is subject to voluntarily proffered conditions. The applicant has proffered to allow only certain uses within the EO District; and **Application No. UP-660-05, Landmark Building & Development of North Carolina, LLC:** Request, contingent on the approval of Application No. ZM-91-05 above, for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 11) of the York County Zoning Ordinance, to authorize the construction of a timeshare resort on approximately 64.48 acres of land located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of its intersection with Tam-O-Shanter Boulevard (Route 1123).

Mr. Earl Anderson, Planner, summarized the memorandum to the Commission dated March 1, 2005, in which the staff recommended approval of both applications. He noted that the Virginia

Department of Transportation (VDOT) has advised it will require a continuous middle turn lane instead of two left-hand turn lanes as proposed by the applicant.

Hearing no questions, **Chair Simasek** opened the public hearing.

Vernon M. Geddy III, Esq., Geddy Harris Franck & Hickman, LLP, 1177 Jamestown Road, Williamsburg, represented the applicant. He introduced principals of the applicant who were in attendance. He thanked Mr. Anderson and the County staff for their assistance. **Mr. Geddy** said the principals representing the applicant have over the past 15 years developed innovative, award-winning, and environmentally-friendly communities comprised of 3500 lots and 1250 homes and condominiums in the Outer Banks of North Carolina, as well as others in Virginia Beach and the Linden Plantation off Parkway Drive in Williamsburg. He said the applicants consulted for a considerable period of time with Williamsburg Country Club, which resulted in a proposal that appears to be a win-win proposition for both principal applicants. He believed it represented a perfect use of the property, taking advantage of the view of the lake and golf course and situated between the golf course and Busch Gardens, and is very accessible to nearby neighborhoods. In addition, the topography made it ideal for commercial development. It represents a \$162 million investment with a fiscal impact during development of \$750,000 in sales, plus a substantial payroll. It provides excellent access, the applicants were willing to proffer the turn lane improvements required by VDOT, and Mr. Geddy recommended approval in accordance with staff recommendations.

Mr. Davis asked if the applicants conducted a market study to determine density and estimate saturation level for timeshares in the community, and **Mr. Geddy** acknowledged that several extensive studies were performed.

Mr. Staton asked the projected build out term, and **Mr. Geddy** replied it should take 15 years to complete the project.

Mr. Ptasznik inquired about the garages depicted on some of the cottage units and asked if that is a typical amenity for a timeshare. **Mr. Geddy** said while a garage may not be typical, the "golf villa" offers the features of a single-family home to patrons who may visit with their families for up to five weeks at a time, several times a year, and who like to have more of the amenities of home.

Mr. David Russotto, Chief Executive Officer, Landmark Building & Development, 5028 Martins Point Road, Kitty Hawk, NC, acknowledged that some of the units are not typical of timeshares. The garages would help accommodate the needs of patrons who may come more often and stay longer than is typical for a timeshare.

Responding to **Mr. Simasek's** question about determining density of timeshares the County can support, **Mr. Russotto** noted his company had commissioned market studies from three professional firms, including David Adkins International.

Mr. Stan Gorski, President, Williamsburg Country Club, 302 Artillery Road, spoke in favor of approving both applications because they would be a great advantage to the Country Club, the

County and neighborhood including nearby timeshares. He was certain the project would be first-class upon completion.

Mr. Davis observed it appeared to be a good use for an otherwise difficult topographic site.

Mr. Simasek believed it was a sensible use of the land.

Mr. Barba observed it should not impact any residential areas.

Mr. Ptasznik moved to adopt proposed Resolution PC05-10.

PC05-10

On motion of Mr. Ptasznik, which carried 7:0, the following resolution was adopted:
A RESOLUTION TO RECOMMEND APPROVAL OF A REQUEST TO REZONE APPROXIMATELY 66 ACRES ON THE NORTHSIDE OF MERRIMAC TRAIL (ROUTE 143) FROM LB (LIMITED BUSINESS) AND RC (RESOURCE CONSERVATION) TO EO (ECONOMIC OPPORTUNITY) AND TO RC SUBJECT TO VOLUNTARILY PROFFERED CONDITIONS.

WHEREAS, Landmark Building and Development of North Carolina, LLC has submitted and Williamsburg Country Club and Revocor Corporation, N.V. will execute Application No. ZM-91-05, which requests to amend the York County Zoning Map by reclassifying 63.48 acres identified as Assessor's Parcel Nos. 15-2-D (GPIN I12C-0023-1654), 15-6-A (GPIN I12C-0536-0860), 15-7 (GPIN I12C-0061-1057), 15-2-C (GPIN H12D-3733-1074), 15-2-B (GPIN H12D-3064-1241), and 15-4B (GPIN H12D-2515-1568) from LB (Limited Business) to EO (Economic Opportunity); a 1.0-acre portion of Assessor's Parcel No. 15-4A (GPIN H12B-3671-2710) from RC (Resource Conservation) to EO; a 1.08-acre portion of Assessor's Parcel No.15-2-B from LB to RC; and a 0.41-acre portion of Assessor's Parcel No.15-4A from LB to RC; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. ZM-91-05 be, and it hereby is, transmitted to the York County Board of Supervisors with a recommendation of approval to amend the York County Zoning Map by reclassifying 63.48 acres identified as Assessor's Parcel Nos. 15-2-D (GPIN I12C-0023-1654), 15-6-A (GPIN I12C-0536-0860), 15-7 (GPIN I12C-0061-1057), 15-2-C (GPIN H12D-3733-1074), 15-2-B (GPIN H12D-3064-1241), and 15-4B (GPIN H12D-2515-1568) from LB (Limited Business) to EO (Economic Opportunity); a 1.0-acre portion of Assessor's Parcel No. 15-4A (GPIN H12B-3671-2710) from RC (Resource Conservation) to EO; a 1.08-acre portion of Assessor's Parcel No.15-2-B from LB to RC; and a 0.41-

acre portion of Assessor's Parcel No.15-4A from LB to RC subject to the voluntarily proffered conditions set forth in the applicant's proffer statement, titled "Conditions voluntarily proffered for the reclassification of property identified as tax parcels 15-(2)-C, 15-(2)-D, 15-7, 15-6-A, 15-4B, and a portion of 15-4A." signed by the current owners of the subject property Revocor Corporation, N.V. and the Williamsburg Country Club, a copy of which shall remain on file in the Planning Division, and which, upon approval by the Board of Supervisors, shall be recorded in the office of the Clerk of the Circuit Court pursuant to the requirements of Section 24.1-114(e)(1) of the York County Zoning Ordinance.

Mr. Hamilton moved adoption of proposed Resolution No. PC05-11.

PC05-11

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE THE CONSTRUCTION OF A TIMESHARE RESORT ON APPROXIMATELY 64.48 ACRES OF LAND LOCATED ON THE NORTH SIDE OF MERRIMAC TRAIL (ROUTE 143).

WHEREAS, Landmark Building and Development of North Carolina, LLC has submitted and Williamsburg Country Club and Revocor Corporation, N.V. will execute Application No. UP-660-05 requesting a Special Use Permit, pursuant to Section 24.1-306 (Category 11, Number 11) of the York County Zoning Ordinance, to authorize a Special Use Permit for the construction of a timeshare resort on approximately 64.48 acres of land located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-Shanter Boulevard (Route 1123) and further identified as Assessor's Parcel Nos. 15-2-D (GPIN I12C-0023-1654), 15-6-A (GPIN I12C-0536-0860), 15-7 (GPIN I12C-0061-1057), 15-2-C (GPIN H12D-3733-1074), 15-4B (GPIN H12D-2515-1568), and portions of Assessor's Parcel Nos. 15-2-B (GPIN H12D-3064-1241) and 15-4A (GPIN H12B-3671-2710); and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. UP-660-05 be, and is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit for the construction of a timeshare resort on approximately 64.48 acres of land located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-

Shanter Boulevard (Route 1123) and further identified as Assessor's Parcel Nos. 15-2-D (GPIN I12C-0023-1654), 15-6-A (GPIN I12C-0536-0860), 15-7 (GPIN I12C-0061-1057), 15-2-C (GPIN H12D-3733-1074), 15-4B (GPIN H12D-2515-1568), and portions of Assessor's Parcel Nos. 15-2-B (GPIN H12D-3064-1241) and 15-4A (GPIN H12B-3671-2710).

1. This use permit shall authorize the establishment of a timeshare resort with a maximum of 824 timeshare units on property located on the north side of Merrimac Trail (Route 143) approximately 1,250 feet south of the intersection with Tam-O-Shanter Boulevard (Route 1123) and further identified as Assessor's Parcel Nos. 15-2-D, 15-6-A, 15-7, 15-2-C, 15-4B, and portions of Assessor's Parcel Nos. 15-2-B and 15-4A. A timeshare unit shall be defined as a single unit of one or more rooms that may be separated from other units by a locked door, providing complete, independent transient living facilities for one family, including permanent provisions for living, sleeping, cooking, and sanitation.
2. A site plan prepared in accordance with the provisions of Article V of the York County Zoning Ordinance shall be submitted to and approved by the County prior to the commencement of any development or land clearing activities on the site. Such site plan shall be in general conformance with the conceptual plan titled "Master Plan – Parkview and Illustrative Plan - Parkview" prepared by AES Consulting Engineers, dated March, 2005, a copy of which shall remain on file in the Planning Division.
3. The exterior siding, roofing, and brick shall generally conform with the architectural renderings titled "Front Elevation View" and "Rear Elevation View" dated 12/04, a copy of which will remain with the application file.
4. Transitional buffers in accordance with Section 24.1-243 of the York County Zoning Ordinance shall be provided along all property lines.
5. The developer shall be responsible for installing left turn lanes from eastbound Route 143 into the Property at the eastern most and western most entrances with 200 feet of storage and 200 foot tapers for each turn lane. A 150-foot right turn lane from west bound Route 143 at the western most entrance into the Property and a continuous right turn lane from the I-64 off ramp onto Route 143 to the eastern most entrance shall be constructed. All public roadway improvements shall be approved by VDOT prior to construction. In addition, all streets, drives, and parking areas in the development shall be constructed to VDOT cross-sectional street standards.
6. The resort shall be served by sanitary sewer and public water.
7. Permanent year-round occupancy of any units by any individual or family other than that of a resident manager or caretaker and his or her family shall not be permitted.
8. The timeshare resort shall consist only of residential units for which the exclusive right of use, possession, or occupancy circulates among various owners or lessees thereof in accordance with a fixed time schedule, which may vary within certain specified time periods, on a periodically recurring basis.

9. Proposed procedures and regulations for maintenance and upkeep of the facility shall be submitted to the Zoning Administrator for review and approval at the time of the initial site plan submission for the project.
10. On-site parking to serve the development shall be provided in accordance with all applicable requirements set forth in Article VI of the Zoning Ordinance.
11. All agreements and restrictions pertaining to ownership and maintenance of common areas on the site shall comply fully with Section 55-360 et seq., Code of Virginia, the Virginia Real Estate Time-Share Act. Certification by the developer's legal counsel that the referenced standards have been met shall be submitted with development plans.
12. The applicant shall be responsible for compliance with the regulations in Section 24.1-115(b)(6) of the Zoning Ordinance that pertain to the recordation of this resolution in the office of the Clerk of the Circuit Court.

Application No. UP-661-05, The Hertz Corporation: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 5(a)) of the York County Zoning Ordinance, to authorize an auto rental establishment of approximately 1,900 square feet with associated rental car storage in the Liguria Retail Center located at 2021 Richmond Road. The property is located on the north side of Richmond Road (Route 60) approximately 850 feet west of its intersection with Governor Berkley Road. The property, further identified as Assessor's Parcel No. 5-48, is zoned GB (General Business) and is designated for Limited Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, summarized the staff report to the Commission dated February 28, 2005 in which the staff made a recommendation of approval. **Mr. Davis** asked if adequate parking would be available to serve other business lessees in the center. **Ms. Parker** explained that the amount of available parking would be the determining factor for types of future tenants. There would be enough parking for a mix of high- and low-volume retail or office uses.

Chair Simasek opened the public hearing.

Mr. Michael Perry, 317 Constance Drive, Chesapeake, spoke for the applicants. **Mr. Perry** stated the proposed business would lease automobiles to the public and would not perform any maintenance or repairs to the cars while on the lot. He assured there would be adequate parking for any remaining retail lessees.

Mr. Hamilton asked if there would adequate space left to negotiate the turn-around of a tow truck in the parking lot. **Mr. Perry** said there is enough room for a tow truck to turn around and load a car in the assigned parking area.

Responding to **Mr. Ptasznik**'s questions about maintenance such as vacuuming or washing vehicles on site, **Ms. Kelly Royal**, Hertz Corporation, 1303 Westover Avenue, Norfolk, said the staff would only vacuum the cars' interiors but no washing or major cleaning would be done on the premises.

Mr. Simasek closed the public hearing.

The members generally supported the application, seeing it as an improvement for the area and a suitable site for an automobile leasing operation.

Mr. Hamilton moved the adoption of proposed Resolution PC05-13.

PC05-13

On motion of Mr. Hamilton, which carried 7:0, the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE AN AUTO RENTAL ESTABLISHMENT WITH ASSOCIATED
RENTAL CAR STORAGE AT 2021 RICHMOND ROAD

WHEREAS, Hertz Corporation has submitted Application No. UP-661-05, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 5(a)) of the York County Zoning Ordinance to authorize a 1,900-square foot auto rental establishment with associated rental car storage in the Liguria Retail Center located at 2021 Richmond Road (Route 60) and further identified as Assessor's Parcel No. 5-48; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005 the Application No. UP-661-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 1,900-square foot auto rental establishment with associated rental car storage in the Liguria Retail Center located at 2021 Richmond Road (Route 60) and further identified as Assessor's Parcel No. 5-48; subject to the following conditions:

1. This use permit shall authorize a 1,900-square foot auto rental establishment with associated rental car storage located at 2021 Richmond Road (Route 60) and further identified as Assessor's Parcel No. 5-48.

2. The subject use shall be in substantial conformance with the sketch plan submitted by the applicant titled "Hertz @ Liguria Retail Center," dated 1/14/05, prepared by MSA, P.C. and received by the Planning Division on January 13, 2005.
3. Any signage associated with the use shall be installed in compliance with all applicable requirements of the Zoning Ordinance.
4. Prior to issuance of a Certificate of Occupancy for the proposed use, a detailed parking tabulation for the retail center shall be submitted to and approved by the Department of Environmental and Development Services. The tabulation shall take into account all current uses as well as the proposed use with their corresponding parking requirements.
5. Rental car storage shall be limited to parking spaces located along the rear property boundary as shown on the plan referenced in Condition #2 above. Rental car storage spaces shall be identified on-site with appropriate signage meeting requirements of Section 24.1-702 of the Zoning Ordinance.
6. There shall be no service or repair of rental cars on-site.
7. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-662-05, James D. and Mia M. Cunningham: Request for a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize an accessory apartment of approximately 515 square feet on the second story of a detached garage to be built in conjunction with an existing single-family detached home on a 0.81-acre parcel of land located at 104 North Will Scarlet Lane in the Queens Lake subdivision. The property, further identified as Assessor's Parcel No. 7A2-10-EH-9, is zoned RR (Rural Residential) and is designated for Low Density Residential development in the Comprehensive Plan.

Timothy C. Cross, AICP, Principal Planner, reviewed the staff report dated February 28, 2005 in which the staff recommended approval.

Mr. Simasek asked if the proposed deed restriction limiting the combined occupancy of the home and the apartment because of the lack of public sewer would be removed when public sewer is provided. **Mr. Cross** stated he believes the restriction could be worded in such a way that would occur. **Mr. Barnett** advised that the County could consent to allow the owner to file an amended deed when public sewer becomes available, or the deed restriction could be worded to expire automatically when public sewer is provided.

Mr. Ron Buhl, Case Design & Remodeling, spoke in behalf of the applicants. He said the applicants, Mr. and Mrs. Cunningham, have already begun the process to record the deed restriction.

The proposal includes compliance with the owners' desire to match the vertical board and batten siding on the existing garage. **Mr. Simasek** noted that the plan submitted by Mr. Buhl calls for the stairwell to comply with the Fairfax County Code and he suggested Mr. Buhl comply with the York County Code. **Mr. Buhl** responded he was instructed by both York and James City Counties to observe the Fairfax County Code.

Mr. Barba moved the adoption of proposed Resolution PC05-14.

PC05-14

On motion of Mr. Barba, which carried 7:0 , the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
FOR A DETACHED ACCESSORY APARTMENT AT 104 NORTH WILL
SCARLET LANE

WHEREAS, James D. and Mia M. Cunningham have submitted Application No. UP-662-05, which requests a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize an accessory apartment of approximately 515 square feet on the second story of a detached garage to be built in conjunction with an existing single-family detached home on a 0.81-acre parcel of land located at 104 North Will Scarlet Lane (Route 1311) and further identified as Assessor's Parcel No. 7A2-10-EH-9 (GPIN# G15a-2261-4097); and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that Application No. UP-662-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a Special Use Permit, pursuant to Section 24.1-407(b) of the York County Zoning Ordinance, to authorize construction of an accessory apartment of approximately 515 square feet on the second story of a detached garage to be built in conjunction with an existing single-family detached home on a 0.81-acre parcel of land located at 104 North Will Scarlet Lane and further identified as Assessor's Parcel No. 7A2-10-EH-9 (GPIN# G15a-2261-4097) subject to the following conditions:

1. This Special Use Permit shall authorize construction of an accessory apartment of approximately 515 square feet on the second story of a detached garage to be built in conjunction with an existing single-family detached home on a 0.81-acre parcel of land located at 104 North Will Scarlet Lane and further identified as Assessor's Parcel No. 7A2-10-EH-9 (GPIN# G15a-2261-4097).

2. Building plans for the garage shall be submitted to and approved by the York County Department of Environmental and Development Services, Division of Building Regulation, prior to the commencement of any construction activities. Said plans shall be in substantial conformance with the plot plan and building elevations submitted by the applicant, copies of which shall remain on file in the Planning Division.
3. Prior to the issuance of a building permit for the garage/apartment, the applicant shall either expand the existing septic system in accordance with the standards of the Virginia Department of Health or record with the Clerk of the Circuit Court a deed restriction on the property limiting the combined occupancy of the principal dwelling unit and the accessory apartment to no more than six (6) individuals.
4. Construction and operation of the accessory apartment shall be in compliance with the performance standards set forth in Section 24.1-407 of the Zoning Ordinance.
5. The height of the garage/apartment shall not exceed 1.25 times the height of the principal dwelling on the property.
6. The minimum front yard building setback requirement for the garage/apartment shall be fifty feet (50').
7. Issuance of this Special Use Permit does not supersede any legally recorded restrictive covenants that may apply to the subject property, nor does it relieve the applicant and/or property owner of any obligation to secure approvals that may be required by a homeowners' association in accordance with said covenants.
8. In accordance with Section 24.1-407(k) of the County Zoning Ordinance, prior to issuance of a building permit for the accessory apartment, the applicant shall be responsible for recording a deed restriction document with the Clerk of the Circuit Court stipulating that the subject accessory apartment will be used, occupied and maintained in accordance with standards and restrictions set forth in Section 24.1-407 of said Ordinance. A Court-certified copy of the document shall be submitted to the County at the time of building permit application.
9. Notwithstanding the customary two-year deadline for establishing special uses set forth in Section 24.1-115©(1), failure to establish the accessory apartment within three (3) years of the date of approval shall cause the permit to terminate automatically.
10. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this special use permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court.

Application No. UP-663-05, StorMoore/Uppy's Convenience Store: Request for an amendment to a Special Use Permit (UP-634-04), pursuant to Section 24.1-115(d)(3) of the York County Zoning Ordinance, granted for a mini-storage warehouse facility and

access to a contractor's storage yard at 7307 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel No. 24-128. The amendment requests vehicular access to the mini-storage warehouse facility/contractor's storage yard through an abutting parcel located at 7305 George Washington Memorial Highway (Uppy's Convenience Store) and further identified as Assessor's Parcel No. 24-129. The properties are located in the northwest quadrant of the intersection of Whites Road (Route 1216) and George Washington Memorial Highway. The properties are zoned GB (General Business) and are designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, summarized the staff report dated March 2, 2005 and explained this request for an amendment to a Special Use Permit granted under Application No. UP-634-04, which the Planning Commission considered last April and the Board approved in May 2004. The staff is recommending approval of the subject application.

Mr. Barba asked if the original approval by the Board of Supervisors required 10-foot landscape yards along the property's side lines. **Ms. Parker** explained the approved site plan indicated retention of existing trees within the 10-foot side yards on either side and within the 50-foot transitional buffer abutting the adjacent residential properties. **Mr. Barba** noted no trees remain in the 10-foot side yard against Uppy's. **Mr. Parker** stated that appeared to be accurate and referred **Mr. Barba's** concerns to **Mr. Mark Carter** as a zoning enforcement issue.

Mr. Staton inquired about traffic conditions at the location, and **Ms. Parker** explained a traffic analysis would be required for site plan approval. **Mr. Staton** suggested a traffic analysis would have been helpful for the Commission's deliberations. **Ms. Parker** replied that a traffic analysis had not been requested as part of the application.

Ms. Conner observed the parking lot of Uppy's convenience store could effectively become a cut-through for vehicle traffic to Whites Road. **Ms. Parker** acknowledged that under the proposal the central portion of the Uppy's parking lot would become a "traffic aisle." However, without a median break at Whites Road it would be necessary for northbound traffic to make U-turns at a median on Route 17 and head south to access the contractor's storage yard. The staff had concluded, with the concurrence of the Virginia Department of Transportation (VDOT), that the proposed shared parking layout represented a safer option.

Ms. Conner was still concerned as to whether a roadway bisecting the parking lot between the gas pumps and the convenience store would improve the situation. Patrons would need to cross the traffic aisle between the gasoline pumps and the convenience store, which she believed could jeopardize the patrons' safety. She indicated that a traffic impact analysis would have been a valuable tool for understanding the safety issues involved.

Ms. Conner suggested the applicant might acquire more lots on Whites Road to permit better access to his storage yard. **Ms. Parker** explained the zoning was residential down Whites Road and would not permit that type of usage, and some of the lots have occupied homes. **Ms. Parker** believed there is room enough to accommodate a central traffic aisle on Uppy's lot with access to gas pumps, but

some improvements or modifications would be needed to allow truck traffic to bypass the gas pumps.

Mr. Carter added that, as a general rule, the County encourages commercial properties with interconnected parking lots because it allows patrons to move between establishments without having to go onto the main highway. A mini-storage warehouse combined with 3,000 square feet of retail space is considered to be a low traffic-generator. This type of combined use provides a safety advantage by allowing patrons to move between the two establishments without having to go onto the main roads.

Mr. Carter then addressed **Mr. Staton's** earlier remark about a traffic study. The Virginia Department of Transportation has determined that it would be advantageous to have this connection. In addition, the traffic study that is required for site plan review would better project how much traffic to expect and, based on the projected traffic, determine what technical design standards would apply. **Mr. Carter** reiterated that in terms of the basic question of whether the shared lot is a good idea, VDOT supports it because it will eliminate the U-turn traffic.

Chair Simasek opened the public hearing.

Mr. Kenneth Dale Moore, 104 Lewis Drive, Seaford, spoke in behalf of his application. He explained that his application came about because Uppy's Convenience Store requested it. He spoke of some of the traffic safety concerns, noting that the entrance to Greene Drive from Route 17 is used by commercial traffic from C. A. Barrs Construction and BFI. He noted that a similar arrangement is in place at Wawa and the adjoining shopping center on the corner of Route 17 and Wolftrap Road, and he was unaware of any problems with the shared lot at that location.

Mr. Davis asked why Uppy's would want such an arrangement and who would pay for it. **Mr. Moore** said that Uppy's management thought a shared drive would increase business for them and has offered to pay for it. **Mr. Moore** referenced correspondence from Uppy's that he submitted to the County indicating their support of the proposal.

Mr. Barba said Mr. Moore's original application included storage of contractors' equipment on the Greene Drive property, with access from Greene Drive, and now there is talk about possible heavy equipment traffic from Route 17. He did not understand the apparent inconsistency. **Mr. Moore** told Mr. Barba the heavy construction equipment should not be going in and out of the storage lot or sharing the Uppy's lot. The mini-storage warehouse customers, on the other hand, typically drive trailers, vans or trucks to their units on their initial visit, which would generate some traffic through the Uppy's lot. He said that once the units were filled it would be unusual to have much traffic of that nature coming to the property.

Mr. Staton asked about the helipad site. **Mr. Moore** said it had been approved for the occasional use of his helicopter, which he pilots.

Mr. Ptasznik observed that VDOT has been interested in minimizing access to properties from Route 17 and it appeared the applicant's proposal would serve a good purpose. The substantial

distance proposed to separate the gas pumps and convenience store did not appear problematical to him.

Mr. Barba did not understand the need for changing the traffic pattern and did not support approval.

Mr. Hamilton did not support the application because of his safety concerns for the Uppy's lot.

Mr. Station shared the opinions expressed by Messrs. Barba and Hamilton.

Mr. Simasek reminded that the Commission's recommendation should be based on land use. He favored approval based on the applicants' agreement and VDOT's support.

Mr. Barba moved proposed Resolution PC05-15.

PC05-15

<u>Present</u>	<u>Vote</u>
Andrew A. Simasek, Chair	Yes
Alfred E. Ptasznik, Jr., Vice Chair	Yes
Alexander T. Hamilton	No
John W. Staton	No
Nicholas F. Barba	No
Anne C. H. Conner	No
John R. Davis	Yes

On motion of Mr. Barba, the following resolution was denied by a vote of 3:4.

A RESOLUTION TO RECOMMEND APPROVAL OF AN AMENDMENT TO SPECIAL USE PERMIT UP-634-04 TO AUTHORIZE VEHICULAR ACCESS TO PROPERTY LOCATED AT 7307 GEORGE WASHINGTON MEMORIAL HIGHWAY THROUGH PROPERTY LOCATED AT 7305 GEORGE WASHINGTON MEMORIAL HIGHWAY.

NEW BUSINESS

- **Capital Improvements Program, 2006-2011:** Review and certify the proposed six-year capital improvements program for conformance with the Comprehensive Plan. (Proposed Resolution No. PC05-16)

Timothy C. Cross, AICP, Principal Planner, referred to the staff report dated February 28, 2005, and offered to answer any questions.

Mr. Staton moved the adoption of proposed Resolution PC05-16.

PC05-16

On motion of Mr. Staton, which carried 7:0, the following resolution was adopted:

**A RESOLUTION TO CERTIFY CONFORMANCE OF THE PROPOSED
YORK COUNTY CAPITAL IMPROVEMENTS PROGRAM FOR FY 2006-
2011 WITH THE YORK COUNTY COMPREHENSIVE PLAN**

WHEREAS, Section 15.2-2232 of the Code of Virginia requires public facilities to be substantially in accord with the local comprehensive plan; and

WHEREAS, pursuant to *Charting the Course to 2015: The County of York Comprehensive Plan*, the York County Planning Commission has been requested to review the Capital Improvements Program for conformance with the Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 9th day of March, 2005, that it does hereby certify the York County, Virginia Proposed Capital Improvements Program for Fiscal Years 2006-2011 as being in conformance with *Charting the Course to 2015: The County of York Comprehensive Plan*.

OLD BUSINESS

There was no old business.

STAFF REPORTS

Mr. Carter reported on recent actions by the Board of Supervisors and on current development in the County. In response to Mr. Simasek, he added that leasing for Riverwalk Landing in Yorktown is going well and the Grand Opening will be Memorial Day weekend.

Mr. Carter informed the Commission of a senior housing project as well as Board-sponsored applications for zoning text and map amendments scheduled for public hearing in April.

COMMITTEE REPORTS

Mr. Nick Barba reported on the progress of the Route 17 Revitalization Program Review Committee and the Comprehensive Plan Review Steering Committee. There could be a draft revision of the Comprehensive Plan distributed for the Commission's review as early as May, he added.

COMMISSION REPORTS AND REQUESTS

There were no reports or requests.

ADJOURN

The meeting was adjourned at 8:57 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Andrew A. Simasek, Chair

DATE: April 13, 2005